REMARKS

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admission of prior art (Figures 1-2A) in view of any one of US-6,095,738 to Selle, US-2003/0049097 to Selle (now US patent 6,640,968), or US-6,209,722 to Liestner.

In the rejection the Examiner suggests that the prior art (Figures 1-2A) contains each and every limitation found in claims 1-11 with the exception of the raised flanges (305A, 305B). Applicant disagrees.

In regard to claims 2, 3 and 4, the Examiner has not made a prima facie rejection of the claims. In regard to claims 2, 3 and 4, the Examiner has not applied the recitations of the claims to any of the references. In regard to claim 2 none of the references suggest or disclose a rectangularly shaped nut which includes a raised crown having interior threads thereon. In regard to claim 3, none of the references suggest or disclose raised flanges extend upwardly partially enveloping the treaded stud. Claim 4 is patentable as being dependent on claim 1 which is patentable.

In regard to independent claims 5 and 11, and dependent claims 6-10, the Examiner has not made a prima facie rejection of the claims and has not applied the recitation of the claims to any of the references. None of the references suggest or disclose the structure of claims 5-10. For example, as explained below in connection with claims 1, none of the references disclose a rectangularly-shaped nut having flanges residing in a channel. None of the references suggest or disclose the structure of claim

11. For example, none of the references disclose a U-shaped in cross-section nut adapted to receive a threaded stud which is used in a curvilinear track.

With respect to '738 Selle, the Examiner suggests that it would have been obvious at the time the invention was made to employ opposing flanges (28, 30, 32, 34, 36) to a prior art nut, in order to prevent shingling or jamming within a channel, track, delivery mechanism, or the like.

Claim 1 recites a fastener comprising: a threaded stud; a rectangularly-shaped nut having first and second ends, ***said first and second ends each having a raised flange,*** and, said threaded stud interengaging said rectangularly-shaped nut. The admitted prior art does not disclose a rectangularly-shaped nut having first and second ends each having a raised flange. Nor does the '738 patent to Selle disclose first and second ends each having a raised flange. In fact, the Selle '738 patent does not disclose any of the structure recited in Claim 1, namely: a threaded stud, a rectangularly shaped nut having first and second ends, said first and second ends having a raised flange, and a threaded stud interengaging rectangularly-shaped nut. Most importantly, Selle '738 discloses a t-nut having ***pawls 28 and teeth 32 interconnected by a flat surface34.*** The pawls 28 and teeth 32 extend upward from a circular flange 12 at the base of the t-nut and grip the wood or plastic in which they are inserted. The Examiner wishes to equate the pawls and teeth 32 of Sell '738 with the raised flanges recited in claim 1. Selle '738 hints at a problem with shingling and illustrates the "problem" in Fig. 3 thereof. However, Selle '738 offers no explanation in words or in drawings as to how this "problem" is solved by

using pawls 28 and teeth 32. Instead, Selle '738 seems to provide pawls and teeth which are suitable for use with hard wood, soft wood, and plastic.

Claim 1 recites raised flanges on the ends of a rectangularly shaped nut. Selle '738 does not have raised flanges on the ends of a rectangularly shaped nut. It would not be logical to combine the pawls 28 and teeth of the Selle '738 with the rectangularly shaped nut disclosed in the instant application because the application of the adjustable threshold fastener with flanges and Selle '738 would not accomplish anything. The claimed fastener of the instant invention is not a t-nut. Rather, it is designed as an adjustable device as depicted in Figs. 5, 5A and 5B of the instant invention.

MPEP section 2143.01 indicates that the prior art must suggest the desirability of the claimed invention. "Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. 'The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art.' Here, it is respectfully suggested that the Examiner is improperly combining the admitted prior art and the Selle '738 reference.

The problem to be solved by the Selle '738 reference (gripping of the t-nut in hard wood, soft wood and plastic) is totally different from the problem to be solved by the

instant application (prevention of shingling of adjustable threshold fasteners).

The references themselves do not explicitly provide any suggestion or motivation for combining the references. Nor can any suggestion or motivation be implicitly found since the references themselves are structurally different each from the other and they are directed toward solving different problems. Nor can any suggestion or motivation be implicitly found since the references are structurally different from the instant invention and they are each directed toward solving different problems using different technology.

In *In re Kotzab*, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000) the court held that a "finding as to the specific understanding or principle within the knowledge of a skilled artisan that would have motivated one with no knowledge of [the claimed invention] to make the combination in the manner claimed" must be made. In the instant application, the Examiner has not identified a specific understanding or principle within the knowledge of the skilled artisan that would have motivated one with no knowledge of the claimed invention to make the combination in the manner claimed. Nowhere does the Examiner identify the artisan given the differences in the problems to be solved, nor does the Examiner explain the motivation for combining the structure of admitted prior art and the Selle '738 reference.

Assuming, arguendo, that a person of ordinary skill in some art had the Selle '738 reference and the admitted prior art before him/her, the Examiner has failed to identify what the art is and why the person would have the references before him/her. For example, if working in the art of t-nuts why would a person of ordinary skill in that art be

looking at the threshold adjustable fasteners. And, vice versa, if working in the art of pressure controllers why would a person of ordinary skill in that art be looking at the rotary dampers of Park and Johnston. Further, there is no teaching or suggestion in Selle '738 to explain what structure prevents the shingling. It must be remembered that a person of ordinary skill in the art is a person that would not innovate. A person of ordinary skill in the art is one who thinks along the line of conventional wisdom and does not take to innovate: *Standard Oil Co. v. American Cyanamid Co.*, 774 F.2d 448, 454, 227 USPQ 293 (Fed. Cir. 1985).

With respect to Selle '097, the Examiner suggest that it would have been obvious at the time the invention was made to employ opposing flanges (301, 302) to a prior art fastener, in order to prevent shingling or jamming within a channel, track, delivery mechanism, or the like.

The Selle '097 (now US patent No. 6,640,968 B2) reference discloses use of raised lips on a stud retainer (washer) ***in combination with a delivery track*** to prevent shingling. The Selle '097 reference does not disclose a rectangularly shaped nut having first and second ends with raised flanges.

The combination of Selle '097 and the admitted prior art (Figures 1-2A) would not result in the instant invention because Selle '097 employs lips 301, 302 which are guided by channel 602 in the track. Moreover, the '097 reference restrains the washers from shingling because the body 304 of the washer is restrained from upward and downward movement by track 603, 604. In Selle '097 it is the track 603, 604 which restrains the

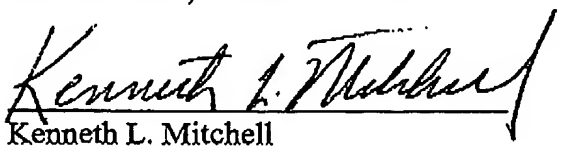
upward movement of the body 304 of the washer, not the lips 301, 302. Lips 301, 302 are for directional guidance in the track, not to prevent shingling. The instant invention utilizes flanges to prevent shingling. The flanges 305A, 305B of the instant invention extend horizontally and vertically to limit motion of the fastener within the track.

With respect to Liestner '722, the Examiner suggest that it would have been obvious at the time the invention was made to employ opposing flanges (16) to a prior art nut, in order to prevent shingling or jamming within a channel, track delivery mechanism, or the like. Liestner '722 discloses and teaches the use of a fastener strip with a grip portion and flanges with two sides that are capable of being bonded together with a membrane material. The Liestner '722 invention attempts to address the shingling problem by bonding adjacent flanges together with an adhesive or web material and keeping the adjacent flanges attached sequentially with membrane material. In addition, the Liestner '722 reference contains a flange (14) and prongs or spikes (16) which are directed perpendicular to the flange. The flange is primarily directed to receiving a bonding material that allows it to be linked directly to the adjacent flange of the following grip. The prongs or spikes 16 in Liestner '722 are used to secure the t-nut to the surface of the workpiece (col. 1, lns 22-26), unlike the flanges in the instant invention whose structure serves to prevent shingling. The prongs or spikes 16 in Liestner '722 are not flanges. Liestner '722 emphasizes the prevention of shingling by bonding flanges directly and continuously together, while the instant invention uses flanges on each side individually to keep each stud separate and apart to prevent shingling. The prior art

(Figures 1-2A) is not properly combinable with Liestner '722. If one were to combine the admitted prior art and Liestner '722, the resulting structure would be a line of studs as seen in Figures 1-2A attached together with an adhesive, tape, or web material as in Figure 4 of the Leistner '722 reference.

Respectfully submitted,

WOODLING, KROST & RUST



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